

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Strasbourg, 19 November 2016

PC-IBC (2016) 07

**EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)**

**COMMITTEE ON OFFENCES RELATING TO
CULTURAL PROPERTY
(PC-IBC)**

2nd meeting

Strasbourg, 7-10 November 2016

ABRIDGED MEETING REPORT

Prepared by the Secretariat

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Summary of Proceedings

2nd Meeting of the Committee on Offences relating to cultural property (PC-IBC), Strasbourg, 7-10 November 2016

1. The Committee on Offences relating to cultural property (PC-IBC) held its 2nd meeting in Strasbourg on 7 to 10 November 2016 with Mr Hans-Holger HERRNFELD (Germany) as its Chair.
2. To open the meeting Mr Carlo CHIAROMONTE, Head of the Criminal Law Division, Secretary of the PC-IBC, provided some information on the work of the Committee so far. He first reminded those present that this venture is a collaboration between two directorates of the Council of Europe and their respective committees (the European Committee on Crime Problems (CDPC) and the Steering Committee for Culture, Heritage and Landscape (CDCPP)).
3. Mr Alfonso ZARDI, Head of Democratic Institutions and Governance Department, also emphasised that while the future convention will be a criminal law convention the culture aspect should always be borne in mind. He highlighted the importance of producing a convention that is innovative, functional and made to last.
4. Mr Chiaromonte underlined that the main task of the committee during the present meeting is examination of and discussions on the main articles on substantive criminal law provisions of the draft Convention on Offences relating to Cultural Property which has been prepared by the scientific experts and the secretariat.
5. He underlined the fact that the draft Convention had been prepared on the basis of the elements which were agreed upon at the 1st meeting of the PC-IBC in May/June 2016.
6. In this regard, he thanked the experts and the Chair for their extraordinary work in order to provide the text of the draft Convention in time for this meeting. A preparatory meeting had been held in the summer between the experts, the Chair and the secretariat to fine tune the scope of the draft Convention.
7. Although the delegations have received the draft Explanatory Report, this document is at a very early stage of drafting and is intended to support the discussions. It will not be discussed during the current meeting.
8. In response to a question concerning the work schedule of the PC-IBC, Mr Chiaromonte informed the committee that another meeting is already planned for 9-13 January 2017. Depending on the progress made this could be followed by a 4th meeting in February 2017. The Convention must be sent to the Committee of Ministers for adoption as quickly as possible and hopefully by May 2017.

9. Following these opening remarks, the Committee adopted its agenda without further ado.
10. Before beginning the examination of the draft Convention article by article, Mr Chiaromonte gave some information on the structure of the text. Articles 1-12 are substantive criminal law provisions related to the subject matter and it is on these provisions that the committee should concentrate first. Following these are standard provisions used in all recent Council of Europe conventions in the criminal field, with the exception of Chapter IV, Preventive Measures. The CDPC has adopted model provisions in this regard, so it should not necessary to examine these articles in great detail.
11. The Committee started with examining and discussing the core provisions of the draft Convention, i.e. Articles 1 to 12. The conclusions relating to the main issues drawn by the Chair are as follows:
12. Article 1: the word 'intentional' is deleted and 'facilitate' under c) replaced by 'promote'.
13. Although the aim of the draft Convention is addressed in the preamble, following debates on whether the aim of the draft Convention should be repeated, a new wording for Article 1 reiterating the aim to protect cultural property is included.
14. Article 2, a): the wording is changed to 'specifically designated, classified or defined' and 'ethnology' is added to the list of areas of importance under Article 2, a) and b). The phrase 'irrespective of origin and ownership' is deleted.
15. Following in depth discussions, it is decided to use the 1970 UNESCO Convention wording for the categories. The advantage of using this Convention is that it has been universally ratified with 131 States Parties.
16. Reference to the 1985 Convention for the Protection of the Architectural Heritage of Europe is removed, while leaving reference to the 1972 UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage.
17. Article 3: to reflect further on this issue and if possible come up with a proposal for a compromise text. In the meantime the 2 current proposed texts for Article 3 are left in square brackets in the draft Convention.
18. Article 4: the article is divided into 3 parts covering excavation, removal and retention of cultural property. This would emphasise the distinction between digging for excavation and removal.
19. The excavation of under-water sites is included in the text.
20. Articles 5 and 6: to inverse the order of these 2 articles so that the reading of the text would be more logical. Illegal importation is now Article 5 and Illegal exportation is now Article 6. To use the words 'carried out without authorisation' instead of the words 'subject to authorisation'.

21. Article 7: the phrase 'in a grossly negligent manner' is put between square brackets for future consideration.
22. To conclude the discussions, the Chair judged that two key issues that emerged during the negotiations, both relating to the domestic implementation of criminal law provisions, that - due to the 'horizontal' concerns presented - should be examined by the CDPC at its November meeting: the question of 'theft' in Article 3 and the more general issue of the possibility for including in the Convention the sanctioning by non-criminal law measures of some wrongdoings.
23. The Chair confirmed that the next meeting of the PC-IBC will take place in Strasbourg from 9 to 13 January 2017. Discussions will continue on articles up to Article 12. The possibility of introducing longer working days (in the evenings) was proposed and accepted by the Committee with a view to developing ideas and continuing in-depth discussions to a conclusion.
24. The January PC-IBC meeting will be followed, on the morning of 13 January, by a Colloquium on "Initiatives to strengthen international capacities for the protection of cultural property and the prevention of illicit trafficking in cultural goods – the Council of Europe Convention on Offences related to Cultural Property" organised by the Cypriot Chairmanship of the Committee of Ministers and the Secretary General of the Council of Europe, Mr Thorbjørn Jagland, to which all members of the PC-IBC are invited.
25. A further PC-IBC meeting will be held shortly after the January meeting at a date to be confirmed.